

REMARKS

Claims 1-98 are pending in the application.

Claims 1-98 are rejected.

Claims 1-2, 4-7, 12-13, 15-18, 23-24, 27-30, 35, 37-38, 41-47, 50-56, 59-63, 65-66, 69-71, 73-74, 77-79, 81-82, 85-87, 89-90 and 93-95 have been amended.

Rejection of Claims under 35 U.S.C. §102

Per the Final Office Action of January 12, 2006, claims 1-5, 7, 12-16, 18, 13-25, 27, 28, 30, 35-39, 41, 42, 44-48, 50, 51, 53-57, 59, 60, 62-67, 69, 70, 72-75, 77, 78, 80-83, 85, 86, 88-91, 93, 94 and 96-98 stand rejected under 35 U.S.C. §102(e) as being anticipated by Leong, et al., U.S. Patent No. 6,393,475 (Leong). Applicant respectfully submits that this rejection is overcome hereby.

In light of the amendments made to independent claims 1, 12, 23, 37, 46, 55, 65, 73, 81 and 89, incorporating limitations relating to the claimed customer relations management system information and the claimed other relations management system information, Applicant respectfully submits that the rejection of claims 1-5, 7, 12-16, 18, 13-25, 27, 28, 30, 35-39, 41, 42, 44-48, 50, 51, 53-57, 59, 60, 62-67, 69, 70, 72-75, 77, 78, 80-83, 85, 86, 88-91, 93, 94 and 96-98 are overcome.

Rejection of Claims under 35 U.S.C. §103

Per the Final Office Action of January 12, 2006, claims 6, 8-11, 26, 17, 19-22, 29, 31-34, 40, 43, 49, 52, 58, 61, 68, 71, 76, 79, 84, 87, 92 and 95 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Leong in view of Farrand, et al., U.S. Patent 5,309,563 (Farrand). As noted with regard to the rejection under 35 U.S.C. §102(e), Applicant again traverses this rejection, both in light of the amendments made to independent claims 1, 12, 23, 37, 46, 55, 65, 73, 81 and 89, as well as for other reasons, pertinent ones of which are presented herein.

While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicant has chosen to respectfully disagree and traverse the rejection in light of these amendments, as follows. Applicant reserves the right, for example, in a continuing application, to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. In teaching or suggestion to make the claimed combination and the reasonable expectation of success, must both be found in the prior art and not based on Applicant's disclosure. The initial burden is on the Examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest that

the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. MPEP 2142.

As to the amendments noted, independent claim 1, as an example, has been amended to recite:

1. An inter-module communication comprising:
a message, wherein
said message comprises customer relations management system information and
other customer relations management system information,
said customer relations management system information comprises at least one of
agent information and work item information,
said agent information comprises information regarding an agent,
said work item information comprises information regarding a work item,
said other customer relations management system information is other than said
agent information and said work item information,
said other customer relations management system information comprises at least
one of a command, a request and a notification, and
at least a portion of said message is encoded in a markup language.

As will be appreciated, a much greater level of detail as to both the claimed customer relations management system information and the claimed other customer relations management system information is now recited, which is again in harmony with comments provided in response to Applicant's earlier-submitted arguments. As will be apparent from a review of the foregoing listing of claims, independent claims 12, 23, 37, 46, 55, 65, 73, 81 and 89 have been amended in a substantially similar manner. In addition, various of the claims depending from amended independent claims 1, 12, 23, 37, 46, 55, 65, 73, 81 and 89 have been amended, both to

conform their language to the amendments made to their respective independent claims, as well as to more clearly set forth the limitations of the claimed invention, in certain of these claims.

In this regard, Applicant further respectfully submits that Leong and Farrand, in any permissible combination (and that, even with the ordinary skill in the art), fail to show, teach or suggest the features recited in claim 1, as claim 1 has not only been amended to include certain limitations of claim 6, but additional limitations that further define the claimed message, the claimed customer relations management system information and the claimed other customer relations management system information, as well. As will be noted in this regard, claim 1 now recites “other customer relations management system information [that] comprises at least one of a command, a request and a notification” As noted, independent claims 12, 23, 37, 46, 55, 65, 73, 81 and 89 have been amended in a substantially similar manner. At a minimum, then, Applicant respectfully submits that the combination of Leong and Farrand fails to show, teach or suggest all the elements of the independent claims, and should be found allowable on this basis alone.

Moreover, Applicant further respectfully maintains that neither reference has anything whatsoever to do with a customer relations management system or customer relations management system information. Applicant respectfully notes that Leong is directed to performing a network management transaction using a web capable agent. *See* Abstract. However, Leong is not directed to customer relations management system information, customer relations management, or anything else associated with customer relations. Therefore, Leong could not be expected to show, teach or suggest “an inter-module communication comprising ... a message ...” that further comprises “customer relations management system information and other customer relations management system information ...,” as recited in claim 1.

Applicant additionally notes that, to be interpreted correctly, the terms “customer relations management system information” and “other customer relations management system information” must be read as single terms. In other words, these terms comprehend information that is regarding a customer relations management system. This being the case, any reference lacking the discussion, disclosure or recognition of a customer relations management system necessarily fails to anticipate or make obvious the claimed invention. To interpret a reference suffering from such infirmities otherwise is inapposite.

To this end, MPEP §2131 makes clear the requirements for anticipation:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). . . . “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). (Emphasis added)

Thus, in addition to showing every element, the references must teach their arrangement as required by the claim. By extension, the combination of Leong and Farrand posited by the Examiner fails to show, teach or suggest Applicant’s claimed invention because neither reference is in any way concerned with a customer relations management system.

As will thus be appreciated, , Farrand finds itself suffering from comparable infirmities, its disclosure being concerned with a computer-implemented method for transferring command messages between a system manager for a computer system and an associated network operating system, rather than the claimed customer relations management system information. *See* Abstract. Applicant is unable to identify (and the Final Office Action fails to specify) any part of

Farrand that teaches “customer relations management system information,” as claimed in claim 1, as well as the other independent claims.

Applicant is also unable to discern in either reference a showing, teaching or suggestion that demonstrates the claimed “other customer relations management system information [that] comprises at least one of a command, a request and a notification,” as claimed in claim 1, as well as the other independent claims. As before, failing the showing, teaching or suggestion of the recited claim limitation, the combination of Leong and Farrand once again fall short of making obvious the claimed invention.

Moreover, Applicant respectfully wishes call into question the propriety of combining Leong and Farrand in the first place. Applicant respectfully submits that the Office Action has not satisfied the burden of factually supporting the alleged motivation to combine Leong and Farrand. Applicant respectfully noted that Leong is directed to:

“A method of performing a network management transaction between a network device, having a network management agent installed thereon, and a remote device, having a web-browser installed thereon, is described. The method involves firstly performing a network management function relating to the network device. Data concerning the network management function is then propagated from the agent to the remote device in a format capable of display by the browser. More specifically, a document is propagated from the agent to the remote device for display by the browser, the document incorporating the data concerning the network management function. The document may be an HTML document. Alternatively, the data may be propagated in a format for display by

the browser under the direction of an application program resident of the remote device.” (Abstract)

Applicant further respectfully notes that Farrand is directed to:

“A protocol for local data transfers between a system manager for a computer system and a network operating system associated with the computer system and a method for exchanging command and response messages between the system manager and the network operating system using a bus master interface provided between the two. Various ones of the interface registers are reserved by the side transferring information, command written to the interface registers and the other side notified of the information transferred to the interface and the reservation released. The interface is also used to transfer responses to the side originating the command.” (Abstract)

With regard to motivation to combine, as best as Applicant can discern, the position taken in the Office Action is that Leong and Farrand would be combined to improve the capability of the system manager to readily exchange information (Final Office Action, p. 4), citing Farrand, col. 26, lines 26-30 and col. 2, lines 42-52. These passages read as follows:

“To improve the capability of the system manager to readily exchange information with the network operating system, thereby providing improved

ability of the system manager to utilize the network in management operations as well as to provide for the capability of the system manager to generate alerts for the network, a communication link between the system manager and the network operating system will be required. In order to achieve such a link, a common set of conventions (or "protocol") for communications between the two must be provided.” (col. 2, lines 42-52)

and

“Bit 0: If overrun is indicated, the notification of the change to the object space has not reached the host. Get the entire object space again. Overrun is set when the system manager detects that the system facility sends an update faster than the host can accept it or when an error code is returned from the host.” (col. 26, lines 26-30)

Applicant are therefore at a loss to appreciate how the foregoing passages teach a need for improvement in the capability of the system manager to readily exchange information, and in particular, such motivation that would lead one of skill of art at the time of the invention to combine the cited reference. However, even if these passages were interpreted to demonstrate such need (a point which Applicant does not concede), Applicant respectfully submits that, as one would expect, the invention disclosed therein (in Farrand) is intended to, and in fact does, meet such requirements. The motivation to combine the references (i.e., the “need” for Leong) is

thus illusory, as Farrand already provides such functionality. Even if Leong provided such functionality (again, a point which Applicant does not concede), Leong's disclosure would be redundant to that of Farrand, and once again, there would be no motivation to combine the references. In such a case, the argument that the references' combination makes obvious the claimed invention falls prey to the arguments made in connection with the rejections under 35 U.S.C. §102(e), as the claimed invention, in such a case, would be distinguished from the combination under the same logic provided in response to the rejections under 35 U.S.C. §102(e).

Given that, as Applicant has demonstrated, the references (taken alone or in permissible combination) fail to provide such motivation, Applicant is left to conclude that the present application, and more particularly, the claims, have been used as the basis for combining these references. Motivation to combine references, as is known, may not be satisfied by engaging impermissible hindsight; any conclusion of obviousness must be reached on the basis of facts gleaned from the references.

Applicant therefore respectfully submits that such an argument fails to establish a *prima facie* case of obviousness and runs perilously close to a forbidden hindsight analysis of the references. Failing a showing of a motivation to combine the references from within the references themselves; therefore, in the present case, it must be presumed that there is none. It is well-established that the best defense to hindsight is a "rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references." *See Ecolochem, Inc. v. Southern California Edison Co.*, 227 F.3d 1361, 1371 (Fed. Cir. 2000); *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25 (Fed. Cir. 2000). A showing of combinability must be "clear and particular" and "broad conclusive statements about

the teaching of multiple references, standing alone, are not ‘evidence.’” *See Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 666 (Fed. Cir. 2000); *Brown & Williamson*, 229 F.3d at 1125.

The reason, suggestion, or motivation to combine may be found explicitly or implicitly: 1) in the prior art references themselves; 2) in the knowledge of those of ordinary skill in the art that certain references, or disclosures in those references, are of special interest or importance in the field; or 3) from the nature of the problem to be solved, “leading inventors to look to references relating to possible solutions to that problem.”

Ruiz, 234 F.3d at 665.

Evidence must therefore be provided that suggests the combination and “[b]road conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence.’” *See In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Unfortunately, as noted, the Office Action presents nothing more than broad, generalized statements related to the motivation of a person of ordinary skill, which Applicant respectfully submit is insufficient to support a finding of obviousness. The Office Action does not establish that the references which are combined are of special interest or importance in the field. Nor does the Office Action present any evidence of a problem to be solved from within those references themselves.¹ Instead, the Office Action fabricates such a problem to be solved, not from the teachings of the cited references, but from the teaching of Applicant’s own disclosure.

Using Applicant’s own disclosure as a blueprint for providing the motivation to combine prior art references in an obviousness determination is impermissible. *See W.L. Gore & Assoc. v. Garlock*, 721 F.2d 1540, 1552-53 (Fed. Cir. 1983) (“To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record

¹ There must be a finding that “there was a disadvantage to the prior systems, such that the ‘nature of the problem’ will have motivated a person of ordinary skill to combine the prior art references.” *Id.* at 666.

convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.”).

For these reasons, as well as others, Applicant respectfully submits that the Office Action fails to present a *prima facie* case of obviousness of the independent claims, and all claims dependent upon them, and that they are in condition for allowance. Accordingly, Applicant submits that amended independent claim 1 clearly distinguishes over Leong and Farrand, taken alone or in any permissible combination. Applicant submits that these arguments apply with equal force to amended independent claims 12, 23, 37, 46, 55, 65, 73, 81 and 89. Applicant therefore respectfully submits that amended independent claims 1, 12, 23, 37, 46, 55, 65, 73, 81 and 89 are allowable for at least the foregoing reasons. Moreover, Applicant respectfully submits that claims 2-11, 13-22, 24-36, 28-45, 47-54, 56-64, 66-72, 74-80, 82-88 and 90-98, which depend from claims 1, 12, 23, 37, 46, 55, 65, 73, 81 and 89, are also allowable for at least the foregoing reasons. Accordingly, Applicant respectfully submits that claims 1-98 are now in condition for allowance.

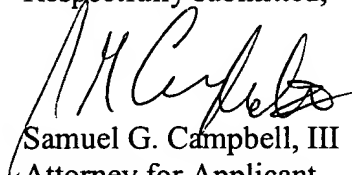
CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5084.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 12, 2006.

 5/12/06
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